

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

EDGAR W. HOWARD,)	CASE NO. 1:06 CV 2772
)	
Plaintiff,)	JUDGE PATRICIA A. GAUGHAN
)	
v.)	
)	<u>MEMORANDUM OF OPINION</u>
SONNY PERDUE, Governor, et al.,)	<u>AND ORDER</u>
)	
Defendants.)	

On November 16, 2006, plaintiff pro se Edgar W. Howard, an inmate at the State Prison for Men in Hardwick, Georgia, filed this 42 U.S.C. § 1983 and diversity action against Georgia Governor Sonny Perdue and Jane and John Doe. The complaint alleges Howard was convicted of criminal offenses in a Georgia trial court. He asserts his convictions were the product of malicious prosecution and perjury, and that he is entitled to release and damages.

A district court is expressly required to dismiss any civil action filed by a prisoner seeking relief from a governmental officer or entity, as soon as possible after docketing, if the court concludes that the complaint fails to state a claim upon which relief may be granted, or if the plaintiff seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C.

§1915A; Siller v. Dean, No. 99-5323, 2000 WL 145167 , at *2 (6th Cir. Feb. 1, 2000)

As a threshold matter, there is no proper basis for venue in this court. 28 U.S.C. § 1391(b).¹ Further, the Supreme Court has held that, when a prisoner challenges "the very fact or duration of his physical imprisonment, ... his sole federal remedy is a writ of habeas corpus." Preiser v. Rodriguez, 411 U.S. 475, 501 (1973).

Accordingly, this action is dismissed under section 1915A. Further, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

/s/ Patricia A. Gaughan
PATRICIA A. GAUGHAN
UNITED STATES DISTRICT JUDGE

Dated: 12/6/06

¹ Title 28 U.S.C. § 1391(b) provides:

A civil action wherein jurisdiction is not founded solely on diversity of citizenship may, except as otherwise provided by law, be brought only in (1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.